

Office of the  
Legislative Fiscal Analyst

## **FY 2005 Budget Recommendations**

Joint Appropriations Subcommittee for  
Natural Resources

Utah Department of Natural Resources  
**Water Rights**

### Contents:

- 1.0 Summary
- 2.0 Issues
- 3.0 Programs
- 4.0 Additional Information

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## **1.0 Summary: Water Rights**

The Division of Water Rights is the only division in the Department of Natural Resources that does not have a board. Directed and administered by the State Engineer, the division is responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters. As part of its duties it oversees dam safety, stream channel alterations and water well drilling.

As a regulatory agency, the division is funded almost entirely with General Funds. There are two minor exceptions:

- UCA 59-12-103(5) requires that \$175,000 (one percent of the \$17.5M cap on the 1/16 percent sales tax earmarked for water projects) be used as Dedicated Credits for water rights adjudication. This amount is up from the \$100,000 required by statute prior to FY 2004. Since the money comes from the sales tax, it is practically General Fund money.
- The division collects assessments on the river systems to pay the salaries of the Water Commissioners. Because the division acts solely as a collection agent, and doesn't use any of the funds, the funds are not included in this analysis or in the appropriations act.

In FY 2003 the division lapsed \$93,000 back to the General Fund. Of this amount, \$46,000 was originally General Fund and the remaining \$47,000 was Dedicated Credits collections in excess of 125% of the appropriation and therefore required to lapse to the General Fund.

	<b>Analyst FY 2005 Base</b>	<b>Analyst FY 2005 Changes</b>	<b>Analyst FY 2005 Total</b>
<b>Financing</b>			
General Fund	5,784,400	(6,800)	5,777,600
Dedicated Credits Revenue	325,000		325,000
<b>Total</b>	<b>\$6,109,400</b>	<b>(\$6,800)</b>	<b>\$6,102,600</b>
<b>Programs</b>			
Administration	716,600	(6,800)	709,800
Appropriation	625,200		625,200
Dam Safety	601,000		601,000
Adjudication	641,000		641,000
Cooperative Studies	472,800		472,800
Technical Services	544,700		544,700
Advertising	150,000		150,000
Area Offices	2,358,100		2,358,100
<b>Total</b>	<b>\$6,109,400</b>	<b>(\$6,800)</b>	<b>\$6,102,600</b>
<b>FTE/Other</b>			
Total FTE	78.5	0.0	78.5

## **2.0 Issues: Water Rights**

### **2.1 Transfer to Attorney General's Office**

The DNR and the Attorney General's Office have agreed to transfer one employee from the DNR payroll to the AG payroll. Since the employee's work is divided among six divisions, each affected division will transfer \$6,800. The Analyst recommends the Legislature approve the transfer.

**General Fund.....(\$6,800)**

### 3.0 Programs: Water Rights

#### 3.1 Administration

##### Recommendation

The Analyst recommends a budget of **\$709,800**. Many of the division's current expenses are charged to this program, including: \$135,000 for professional contracts; \$35,000 for motor pool vehicle rentals; \$32,500 for postage and mailing, and \$16,400 for insurance and bonds.

	2003	2004	2005	Est/Analyst
<b>Financing</b>	<b>Actual</b>	<b>Estimated*</b>	<b>Analyst</b>	<b>Difference</b>
General Fund	532,100	710,900	709,800	(1,100)
General Fund, One-time	100,000	1,300		(1,300)
Beginning Nonlapsing	22,200	50,000		(50,000)
Closing Nonlapsing	17,200			
<b>Total</b>	<b>\$671,500</b>	<b>\$762,200</b>	<b>\$709,800</b>	<b>(\$52,400)</b>
<b>Expenditures</b>				
Personal Services	268,000	353,900	298,000	(55,900)
In-State Travel	1,900	3,300	3,800	500
Out of State Travel	600	1,400	1,500	100
Current Expense	258,900	261,200	263,800	2,600
DP Current Expense	142,100	142,400	142,700	300
<b>Total</b>	<b>\$671,500</b>	<b>\$762,200</b>	<b>\$709,800</b>	<b>(\$52,400)</b>
<b>FTE/Other</b>				
Total FTE	5.9	6.0	5.0	(1.0)

\*Non-state funds as estimated by agency

##### *Transfer to Attorney General's Office*

The DNR and the Attorney General's Office have agreed to transfer one employee from the DNR payroll to the AG payroll. Since the employee's work is divided among six divisions, each affected division will transfer \$6,800. The Analyst recommends the Legislature approve the transfer.

**General Fund.....(\$6,800)**

##### Purpose

The State Engineer is the director of the division and is responsible for water administration and management of all activities within the division. The State Engineer acts in a quasi-judicial capacity. Any decision of the State Engineer may be challenged in court. Included among the responsibilities of this section are setting policy, budget and accounting, personnel issues, public information, legislation and overall office management.

##### Previous Budget Action Report

In the 2003 General Session the Legislature transferred \$16,500 in ongoing General Funds from this line item to the Building Operations line item to help cover increased maintenance costs. The transfer was effective for FY 2003 forward.

### 3.2 Appropriations

#### Recommendation

The Analyst recommends a budget of **\$625,200**. Personal Services comprise **97** percent of the recommended budget.

	2003	2004	2005	Est/Analyst
<b>Financing</b>	<b>Actual</b>	<b>Estimated*</b>	<b>Analyst</b>	<b>Difference</b>
General Fund	577,700	624,600	625,200	600
General Fund, One-time		2,700		(2,700)
Beginning Nonlapsing	4,900			
Closing Nonlapsing	83,200			
<b>Total</b>	<b>\$665,800</b>	<b>\$627,300</b>	<b>\$625,200</b>	<b>(\$2,100)</b>
<b>Expenditures</b>				
Personal Services	646,600	606,900	604,800	(2,100)
In-State Travel	2,700	3,300	3,700	400
Current Expense	15,800	16,400	16,000	(400)
DP Current Expense	700	700	700	
<b>Total</b>	<b>\$665,800</b>	<b>\$627,300</b>	<b>\$625,200</b>	<b>(\$2,100)</b>
<b>FTE/Other</b>				
Total FTE	13.2	12.5	12.5	0.0

\*Non-state funds as estimated by agency

#### Purpose

This program's major responsibility is to ensure the viability of the water appropriation process. The program allocates and regulates surface and ground water throughout the state. Unappropriated water may be allocated, and existing water rights may be transferred. The section processes all applications, which includes receipt, advertising, protests, conducting hearings, and recommending approval or disapproval of the applications. This program also processes proof of appropriation and issues the certificates of appropriation. All water right files are of public record and are maintained in a central file.

### 3.3 Dam Safety

#### Recommendation

The Analyst recommends a budget of **\$601,000**. Personal Services comprise **98** percent of the recommended budget.

	2003	2004	2005	Est/Analyst
<b>Financing</b>	<b>Actual</b>	<b>Estimated*</b>	<b>Analyst</b>	<b>Difference</b>
General Fund	569,700	591,900	601,000	9,100
General Fund, One-time		2,000		(2,000)
Closing Nonlapsing	26,200			
<b>Total</b>	<b>\$595,900</b>	<b>\$593,900</b>	<b>\$601,000</b>	<b>\$7,100</b>
<b>Expenditures</b>				
Personal Services	583,000	588,600	586,700	(1,900)
In-State Travel	7,500	8,000	8,200	200
Current Expense	(30,900)	(4,900)	5,100	10,000
DP Current Expense	36,300	2,200	1,000	(1,200)
<b>Total</b>	<b>\$595,900</b>	<b>\$593,900</b>	<b>\$601,000</b>	<b>\$7,100</b>
<b>FTE/Other</b>				
Total FTE	8.5	8.5	8.5	0.0

\*Non-state funds as estimated by agency

#### Purpose

In 1977 there were several major dam failures in the United States. The Corps of Engineers was mandated by Congress to inventory all dams in the nation and inspect dams that, if they failed, would cause significant loss of property and lives. The State of Utah did its own inventory under contract with the Corps. After the contract ended, the Legislature authorized four FTEs and the Dam Safety program was begun.

The program assures the safety of dams by regulating their construction, repair and long-term maintenance. Plans and specifications are approved, and some 350-400 high-and moderate-hazard dams are inspected annually. This section, in cooperation with the Corps of Engineers, also handles stream channel alteration and gold dredging permits.



### 3.4 Adjudication

#### Recommendation

The Analyst recommends a total budget of **\$641,000**. UCA 59-12-103(5) transfers "Dedicated Credits" of \$175,000 (1% of \$17,500,000) generated through the 1/16 percent sales and use tax, to this program. Dedicated Credits must be used before any General Funds are used. Personal Services comprise 95 percent of the recommended budget.

	2003	2004	2005	Est/Analyst
<b>Financing</b>	<b>Actual</b>	<b>Estimated*</b>	<b>Analyst</b>	<b>Difference</b>
General Fund	574,200	465,100	466,000	900
General Fund, One-time		2,100		(2,100)
Dedicated Credits Revenue	75,000	175,000	175,000	
Closing Nonlapsing	(19,300)			
<b>Total</b>	<b>\$629,900</b>	<b>\$642,200</b>	<b>\$641,000</b>	<b>(\$1,200)</b>
<b>Expenditures</b>				
Personal Services	602,000	612,300	610,300	(2,000)
In-State Travel	5,100	6,100	6,500	400
Out of State Travel	2,500	2,500	2,400	(100)
Current Expense	18,500	19,500	20,000	500
DP Current Expense	1,800	1,800	1,800	
<b>Total</b>	<b>\$629,900</b>	<b>\$642,200</b>	<b>\$641,000</b>	<b>(\$1,200)</b>
<b>FTE/Other</b>				
Total FTE	9.6	10.0	10.0	0.0

\*Non-state funds as estimated by agency

#### Purpose

This program ensures that the waters of the state are distributed to their rightful owners at the appropriate time and in correct quantities. Users' claims are processed into "Proposed Determination of Water Rights" books, and submitted to the District Court for issuance of an interlocutory decree. Due to the process, a large backlog exists. Once a ruling is made, the program ensures they are pursued.

The division has a paralegal and works with four attorneys in the Attorney General's Office. The Distribution section in this program oversees 35 water distribution systems in the state with 55 commissioners and deputy commissioners. River commissioners are appointed by the State Engineer to physically monitor and control the delivery of water.

This section also licenses and oversees all water well drillers' activities.

#### Previous Budget Action Report

In the 2003 General Session the Legislature cut \$20,000 in ongoing General Funds from this program as part of the requirement to reduce budgets by an additional two percent.

### 3.5 Cooperative Studies

#### Recommendation

The Analyst recommends a budget of **\$472,800**. Funding for this program has dropped significantly over the past two years as a result of budget reductions. Pass-through expenditures go to the U.S. Geological Survey.

	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>Est/Analyst</b>
<b>Financing</b>	<b>Actual</b>	<b>Estimated*</b>	<b>Analyst</b>	<b>Difference</b>
General Fund	540,400	472,800	472,800	
General Fund, One-time		200		(200)
Beginning Nonlapsing	80,000			
Closing Nonlapsing	(200,200)			
Lapsing Balance	(45,900)			
<b>Total</b>	<b>\$374,300</b>	<b>\$473,000</b>	<b>\$472,800</b>	<b>(\$200)</b>
<b>Expenditures</b>				
Personal Services	48,700	49,900	49,700	(200)
In-State Travel	400	500	500	
Current Expense	500	600	600	
Other Charges/Pass Thru	324,700	422,000	422,000	
<b>Total</b>	<b>\$374,300</b>	<b>\$473,000</b>	<b>\$472,800</b>	<b>(\$200)</b>
<b>FTE/Other</b>				
Total FTE	1.0	1.0	1.0	0.0

\*Non-state funds as estimated by agency

#### Purpose

The purpose of this program is to perform studies to better define the water resources of the state considering both water quality and quantity. Water measurements are taken to determine stream flow and reservoir levels and are used to distribute water. Also, in conjunction with the United States Geological Survey (USGS), data is gathered and technical information is published. There are matching funds from the USGS for this program. This information is used by many state, county, and local agencies.

#### Previous Budget Action Report

In the 2003 General Session the Legislature transferred \$120,000 ongoing general funds from three other line items (OGM, DWR, UGS) to this line item to cover operating expenses.

The Legislature also transferred \$80,000 from FY 2003 one-time nonlapsing funds from the Wildlife Resources – Capital line item to this program to pay for gauging expenses.

### 3.6 Technical Services

#### Recommendation

The Analyst recommends a budget of **\$544,700**. Personal Services comprise **89** percent of the recommended budget.

	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>Est/Analyst</b>
<b>Financing</b>	<b>Actual</b>	<b>Estimated*</b>	<b>Analyst</b>	<b>Difference</b>
General Fund	617,800	553,100	544,700	(8,400)
General Fund, One-time		1,700		(1,700)
Closing Nonlapsing	(32,000)			
<b>Total</b>	<b>\$585,800</b>	<b>\$554,800</b>	<b>\$544,700</b>	<b>(\$10,100)</b>
<b>Expenditures</b>				
Personal Services	501,700	489,300	487,400	(1,900)
In-State Travel	800	1,000	1,000	
Current Expense	6,300	8,200	8,500	300
DP Current Expense	77,000	56,300	47,800	(8,500)
<b>Total</b>	<b>\$585,800</b>	<b>\$554,800</b>	<b>\$544,700</b>	<b>(\$10,100)</b>
<b>FTE/Other</b>				
Total FTE	7.3	7.5	7.5	0.0

\*Non-state funds as estimated by agency

#### Purpose

This program collects and analyzes water resource data for both surface and ground water sources to adequately define the extent and character of the resource. They also maintain the division's databases as well as the computer programming function.

### 3.7 Advertising

#### Recommendation

The Analyst recommends a budget of **\$150,000** from Dedicated Credits. At one time all fees charged by this program were deposited in the state's General Fund; however in the 2002 General Session the Legislature modified the statute so fees are deposited and appropriated as Dedicated Credits to the division.

	2003	2004	2005	Est/Analyst
	Actual	Estimated*	Analyst	Difference
<b>Financing</b>				
General Fund	(30,000)			
General Fund, One-time	30,000			
Dedicated Credits Revenue	187,500	150,000	150,000	
Lapsing Balance	(47,800)			
<b>Total</b>	<u>\$139,700</u>	<u>\$150,000</u>	<u>\$150,000</u>	<u>\$0</u>
<b>Expenditures</b>				
Personal Services	37,500	55,000	70,000	15,000
Current Expense	102,200	95,000	80,000	(15,000)
<b>Total</b>	<u>\$139,700</u>	<u>\$150,000</u>	<u>\$150,000</u>	<u>\$0</u>

\*Non-state funds as estimated by agency

#### Purpose

Applications to appropriate or to change the use of water must be advertised in a local newspaper to give notice to neighboring water users. This program accounts for advertising expenditures.

House Bill 42 in the 2003 General Session would reduce notification requirements that must be published in a newspaper, and should result in budgetary savings after some initial set-up costs.

#### Intent Language

The Analyst recommends **discontinuing** the following intent language from H.B. 1, 2003 General Session:

*~~It is the intent of the Legislature that the state engineer, in publishing public notices of water application, consider including the water right number, the name of the applicant(s), and general description of the location, source of supply, quantity of water, uses, and period of use.~~*

This language was inserted as a result of the passage of H.B. 42 (Water Use Notification Amendments) which simplified the process of advertising change applications. It was felt advertisements should include a minimum amount of information. Since the language does not apply to the budget, the Analyst does not recommend keeping it.

The agency has complied with the language by including all seven items of information in each notice.

**Previous Budget  
Action Report**

The fiscal note for H.B. 42 estimated \$30,000 in annual savings, but one-time set-up costs of \$77,000. Although it is still early to know for sure, it appears the savings estimate is close to actual (though newspapers may raise rates later) and the one-time set-up cost will probably come in lower than estimated, due to the division currently opting to use simpler technology. The fiscal note stated the set-up costs could be handled within existing budgets, so no appropriation was made.

### 3.8 Regional Offices

#### Recommendation

The Analyst recommends a budget of **\$2,358,100**. Personal Services comprise **91** percent of the recommended budget.

	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>Est/Analyst</b>
<b>Financing</b>	<b>Actual</b>	<b>Estimated*</b>	<b>Analyst</b>	<b>Difference</b>
General Fund	2,214,900	2,366,000	2,358,100	(7,900)
General Fund, One-time		7,600		(7,600)
Closing Nonlapsing	74,900			
<b>Total</b>	<b>\$2,289,800</b>	<b>\$2,373,600</b>	<b>\$2,358,100</b>	<b>(\$15,500)</b>
<b>Expenditures</b>				
Personal Services	2,116,200	2,157,100	2,135,100	(22,000)
In-State Travel	7,300	9,800	10,300	500
Out of State Travel	600	1,100	1,100	
Current Expense	165,100	169,000	171,000	2,000
DP Current Expense	600	36,600	40,600	4,000
<b>Total</b>	<b>\$2,289,800</b>	<b>\$2,373,600</b>	<b>\$2,358,100</b>	<b>(\$15,500)</b>
<b>FTE/Other</b>				
Total FTE	34.2	34.0	34.0	0.0

\*Non-state funds as estimated by agency

#### Purpose

For the convenience of its clients and to reduce travel costs, the division operates seven regional offices in six locations. Two (Utah Lake and Weber River areas) are housed in Salt Lake City. Outlying offices of approximately five people each are located in Logan, Price, Richfield, Vernal and Cedar City. Each regional office offers the same services available to customers as the Salt Lake City head office.

## 4.0 Additional Information: Water Rights

### 4.1 Funding History

	2001	2002	2003	2004	2005
<b>Financing</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Estimated*</b>	<b>Analyst</b>
General Fund	5,752,300	5,915,600	5,596,800	5,784,400	5,777,600
General Fund, One-time	30,000	(124,000)	130,000	17,600	
Federal Funds	11,500				
Dedicated Credits Revenue	100,000	100,000	262,500	325,000	325,000
Beginning Nonlapsing	41,800	4,900	107,100	50,000	
Closing Nonlapsing	(4,900)	(27,100)	(50,000)		
Lapsing Balance			(93,700)		
<b>Total</b>	<b>\$5,930,700</b>	<b>\$5,869,400</b>	<b>\$5,952,700</b>	<b>\$6,177,000</b>	<b>\$6,102,600</b>
<b>Programs</b>					
Administration	521,300	481,100	671,500	762,200	709,800
Appropriation	704,300	693,600	665,800	627,300	625,200
Dam Safety	562,200	556,400	595,900	593,900	601,000
Adjudication	630,300	655,500	629,900	642,200	641,000
Cooperative Studies	563,200	558,600	374,300	473,000	472,800
Technical Services	627,100	574,700	585,800	554,800	544,700
Advertising	136,300	136,600	139,700	150,000	150,000
Area Offices	2,170,200	2,212,900	2,289,800	2,373,600	2,358,100
Geothermal	15,800				
<b>Total</b>	<b>\$5,930,700</b>	<b>\$5,869,400</b>	<b>\$5,952,700</b>	<b>\$6,177,000</b>	<b>\$6,102,600</b>
<b>Expenditures</b>					
Personal Services	4,520,600	4,516,900	4,803,700	4,913,000	4,842,000
In-State Travel	28,800	24,700	25,700	32,000	34,000
Out of State Travel	5,100	5,800	3,700	5,000	5,000
Current Expense	566,200	588,500	536,400	565,000	565,000
DP Current Expense	245,600	202,700	258,500	240,000	234,600
DP Capital Outlay	23,800				
Capital Outlay	24,800				
Other Charges/Pass Thru	515,800	530,800	324,700	422,000	422,000
<b>Total</b>	<b>\$5,930,700</b>	<b>\$5,869,400</b>	<b>\$5,952,700</b>	<b>\$6,177,000</b>	<b>\$6,102,600</b>
<b>FTE/Other</b>					
Total FTE	86.1	88.0	79.7	79.5	78.5

\*Non-state funds as estimated by agency.

### 4.3 Water Rights Fees

In accordance with Section 63-34-5, the following fees are proposed for the services of the Division of Water Rights for FY 2004.

	<b>FY 2004 Current</b>	<b>FY 2005 Proposed</b>	<b>Difference</b>	<b>FY 2005 Units</b>	<b>Revenue Change</b>
1. For examining and filing applications and temporary applications to appropriate water, applications for temporary and permanent change, applications for exchange, applications for an extension of time in which to resume use of water, applications to appropriate or make permanent or temporary change for use outside the state, claims to water based on diligence, a groundwater recovery permit, and for re-publication of notice to water users after amendment of application, the State Engineer shall collect fees based upon the following schedule:					
a. For a quantity of water of 0.1 second-foot or less	75.00	75.00			
b. For a quantity of water more than 0.1 second-foot but not exceeding 0.5 second-foot	100.00	100.00			
c. For a quantity of water more than 0.5 second-foot but not exceeding 1.0 second-foot	125.00	125.00			
d. For a quantity of water more than 1.0 second-foot but not exceeding 2.0 second-foot	150.00	150.00			
e. For a quantity of water more than 2.0 second-foot but not exceeding 3.0 second-foot	175.00	175.00			
f. For a quantity of water more than 3.0 second-foot but not exceeding 4.0 second-foot	200.00	200.00			
g. For each additional second-foot, or fraction thereof, up to but not exceeding 23.0 second-foot	15.00	15.00			



	<b>FY 2004 Current</b>	<b>FY 2005 Proposed</b>	<b>Difference</b>	<b>FY 2005 Units</b>	<b>Revenue Change</b>
h. For applications in excess of 23.0 second-foot	500.00	500.00			
i. For a volume of water of 20 acre-feet or less	75.00	75.00			
j. For a volume of water of 20 acre-feet, but not exceeding 100 acre-feet	100.00	100.00			
k. For a volume of water over 100 acre-feet, but not exceeding 500 acre-feet	125.00	125.00			
l. For a volume of water over 500 acre-feet, but not exceeding 1,000 acre feet	150.00	150.00			
m. For a volume of water over 1,000 acre-feet, but not exceeding 1,500 acre-feet	175.00	175.00			
n. For a volume of water over 1,500 acre-feet, but not exceeding 2,000 acre-feet	200.00	200.00			
o. For each additional 500 acre- feet, or part thereof, but not exceeding 11,500 acre-feet	15.00	15.00			
p. For applications in excess of 11,500 acre-feet	500.00	500.00			
q. For any application that proposes to appropriate by both direct flow and storage, there shall be charged the fee for quantity or volume, whichever is greater, but not both.					

	<b>FY 2004 Current</b>	<b>FY 2005 Proposed</b>	<b>Difference</b>	<b>FY 2005 Units</b>	<b>Revenue Change</b>
2. For a well driller permit					
a. Initial	50.00	50.00			
b. Renewal (annual)	25.00	25.00			
c. Late renewal (annual)	50.00	50.00			
3. For filing a request for an extension of time in which to submit proof of appropriation less than 14 years after the date of approval of the application	25.00	25.00			
4. For filing a request for an extension of time in which to submit proof of appropriation 14 years or more after the date of approval of the application	75.00	75.00			
5. For each certification of copies	4.00	4.00			
6. A reasonable charge for preparing copies of any and all documents					
7. Application to segregate a water right	25.00	25.00			
8. Application to inject water	2,500.00	2,500.00			
9. Diligence claim investigation fee	200.00	200.00			
10. Report of Water Right Conveyance	25.00	25.00			
11. Drill Rig Operator Registration					
a. Initial	50.00	50.00			
b. Renewal (annual)	25.00	25.00			
c. Late Renewal (annual)	50.00	50.00			